

SENATE BILL No. 204

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 32-30-10.5; IC 35-43.

Synopsis: Tax sales and foreclosed property. For purposes of the statutes concerning real property sold for delinquent taxes and special assessments, provides that the interest rate to be paid for redeemed property is the adjusted interest rate used for refunds of state income taxes. Provides that the statute concerning foreclosure prevention agreements does not apply to a mortgage servicer subject to certain federal regulations adopted under the federal Real Estate Settlement Procedures Act. Provides that a person who recklessly, knowingly, or intentionally damages or defaces property that is the subject of a mortgage foreclosure proceeding commits foreclosure mischief, a Class A misdemeanor. Amends the statute concerning criminal trespass to specify that a person commits criminal trespass if the person knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is: (1) vacant real property or a vacant structure (both as defined by the statute concerning the abatement of vacant structures and abandoned structures); or (2) designated by a municipality or county enforcement authority to be abandoned property or an abandoned structure. (Current law does not specify that the property does not have to be designated as vacant by a municipality or county enforcement authority for purposes of the offense.)

Effective: January 1, 2016 (retroactive); July 1, 2016.

Merritt

January 7, 2016, read first time and referred to Committee on Civil Law.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 204

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-24-2, AS AMENDED BY P.L.251-2015,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2016 (RETROACTIVE)]: Sec. 2. (a) This section does
4 not apply to vacant or abandoned real property that is on the list
5 prepared by the county auditor under section 1.5 of this chapter.
6 (b) In addition to the delinquency list required under section 1 of
7 this chapter, each county auditor shall prepare a notice. The notice shall
8 contain the following:
9 (1) A list of tracts or real property eligible for sale under this
10 chapter.
11 (2) A statement that the tracts or real property included in the list
12 will be sold at public auction to the highest bidder, subject to the
13 right of redemption.
14 (3) A statement that the tracts or real property will not be sold for
15 an amount which is less than the sum of:
16 (A) the delinquent taxes and special assessments on each tract
17 or item of real property;



- 1 (B) the taxes and special assessments on each tract or item of
 2 real property that are due and payable in the year of the sale,
 3 whether or not they are delinquent;
 4 (C) all penalties due on the delinquencies;
 5 (D) an amount prescribed by the county auditor that equals the
 6 sum of:
 7 (i) the greater of twenty-five dollars (\$25) or postage and
 8 publication costs; and
 9 (ii) any other actual costs incurred by the county that are
 10 directly attributable to the tax sale; and
 11 (E) any unpaid costs due under subsection (c) from a prior tax
 12 sale.
- 13 (4) A statement that a person redeeming each tract or item of real
 14 property after the sale must pay:
 15 (A) one hundred ten percent (110%) of the amount of the
 16 minimum bid for which the tract or item of real property was
 17 offered at the time of sale if the tract or item of real property
 18 is redeemed not more than six (6) months after the date of
 19 sale;
 20 (B) one hundred fifteen percent (115%) of the amount of the
 21 minimum bid for which the tract or item of real property was
 22 offered at the time of sale if the tract or item of real property
 23 is redeemed more than six (6) months after the date of sale;
 24 (C) the amount by which the purchase price exceeds the
 25 minimum bid on the tract or item of real property plus ~~five~~
 26 ~~percent (5%)~~ interest per annum, **using the adjusted rate of**
 27 **interest specified for the previous year for late payments**
 28 **of state income tax under IC 6-8.1-10-1**, on the amount by
 29 which the purchase price exceeds the minimum bid; and
 30 (D) all taxes and special assessments on the tract or item of
 31 real property paid by the purchaser after the tax sale plus
 32 interest ~~at the rate of five percent (5%)~~ per annum, **using the**
 33 **adjusted rate of interest specified for the previous year for**
 34 **late payments of state income tax under IC 6-8.1-10-1**, on
 35 the amount of taxes and special assessments paid by the
 36 purchaser on the redeemed property.
- 37 (5) A statement for informational purposes only, of the location
 38 of each tract or item of real property by key number, if any, and
 39 street address, if any, or a common description of the property
 40 other than a legal description. The township assessor, or the
 41 county assessor if there is no township assessor for the township,
 42 upon written request from the county auditor, shall provide the



information to be in the notice required by this subsection. A misstatement in the key number or street address does not invalidate an otherwise valid sale.

(6) A statement that the county does not warrant the accuracy of the street address or common description of the property.

(7) A statement indicating:

(A) the name of the owner of each tract or item of real property with a single owner; or

(B) the name of at least one (1) of the owners of each tract or item of real property with multiple owners.

(8) A statement of the procedure to be followed for obtaining or objecting to a judgment and order of sale, that must include the following:

(A) A statement:

- (i) that the county auditor and county treasurer will apply on or after a date designated in the notice for a court judgment against the tracts or real property for an amount that is not less than the amount set under subdivision (3), and for an order to sell the tracts or real property at public auction to the highest bidder, subject to the right of redemption; and
- (ii) indicating the date when the period of redemption specified in IC 6-1.1-25-4 will expire.

(B) A statement that any defense to the application for judgment must be:

- (i) filed with the court; and
- (ii) served on the county auditor and the county treasurer; before the date designated as the earliest date on which the application for judgment may be filed.

(C) A statement that the county auditor and the county treasurer are entitled to receive all pleadings, motions, petitions, and other filings related to the defense to the application for judgment.

(D) A statement that the court will set a date for a hearing at least seven (7) days before the advertised date and that the court will determine any defenses to the application for judgment at the hearing.

(9) A statement that the sale will be conducted at a place designated in the notice and that the sale will continue until all tracts and real property have been offered for sale.

(10) A statement that the sale will take place at the times and dates designated in the notice. Whenever the public auction is to be conducted as an electronic sale, the notice must include a



statement indicating that the public auction will be conducted as an electronic sale and a description of the procedures that must be followed to participate in the electronic sale.

(11) A statement that a person redeeming each tract or item after the sale must pay the costs described in IC 6-1.1-25-2(e).

(12) If a county auditor and county treasurer have entered into an agreement under IC 6-1.1-25-4.7, a statement that the county auditor will perform the duties of the notification and title search under IC 6-1.1-25-4.5 and the notification and petition to the court for the tax deed under IC 6-1.1-25-4.6.

(13) A statement that, if the tract or item of real property is sold for an amount more than the minimum bid and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

(14) If a determination has been made under subsection (e), a statement that tracts or items will be sold together.

(c) If within sixty (60) days before the date of the tax sale the county incurs costs set under subsection (b)(3)(D) and those costs are not paid, the county auditor shall enter the amount of costs that remain unpaid upon the tax duplicate of the property for which the costs were set. The county treasurer shall mail notice of unpaid costs entered upon a tax duplicate under this subsection to the owner of the property identified in the tax duplicate.

(d) The amount of unpaid costs entered upon a tax duplicate under subsection (c) must be paid no later than the date upon which the next installment of real estate taxes for the property is due. Unpaid costs entered upon a tax duplicate under subsection (c) are a lien against the property described in the tax duplicate, and amounts remaining unpaid on the date the next installment of real estate taxes is due may be collected in the same manner that delinquent property taxes are collected.

(e) The county auditor and county treasurer may establish the condition that a tract or item will be sold and may be redeemed under this chapter only if the tract or item is sold or redeemed together with one (1) or more other tracts or items. Property may be sold together only if the tract or item is owned by the same person.

SECTION 2. IC 6-1.1-25-2, AS AMENDED BY P.L.251-2015, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The total amount of money required for the redemption of real property equals:

(1) the sum of the amounts prescribed in subsections (b) through



(f), reduced by any amount held in the name of the taxpayer or purchaser in the tax sale surplus fund; or

(2) the amount prescribed in subsection (g).

(b) Except as provided in subsection (g), the total amount required for redemption includes:

(1) one hundred ten percent (110%) of the minimum bid for which the tract or real property was offered at the time of sale, as required by IC 6-1.1-24-5, if the tract or item of real property is redeemed not more than six (6) months after the date of sale; or

(2) one hundred fifteen percent (115%) of the minimum bid for which the tract or real property was offered at the time of sale, as required by IC 6-1.1-24-5, if: the tract or item of real property is redeemed more than six (6) months but not more than one (1) year after the date of sale.

(c) Except as provided in subsection (g), in addition to the amount required under subsection (b), the total amount required for redemption includes the amount by which the purchase price exceeds the minimum bid on the real property plus:

(1) interest per annum, using the adjusted rate of interest specified for the previous year for late payments of state income tax under IC 6-8.1-10-1, on the amount by which the purchase price exceeds the minimum bid on the property, if the date of sale occurs after June 30, 2016;

(+) (2) five percent (5%) per annum on the amount by which the purchase price exceeds the minimum bid on the property, if the date of sale occurs after June 30, 2014, and before July 1, 2016;
or

(-) (3) ten percent (10%) per annum on the amount by which the purchase price exceeds the minimum bid on the property, if the date of sale occurs before July 1, 2014.

(d) Except as provided in subsection (g), in addition to the amount required under subsections (b) and (c), the total amount required for redemption includes all taxes and special assessments upon the property paid by the purchaser after the sale plus:

(1) interest per annum, using the adjusted rate of interest specified for the previous year for late payments of state income tax under IC 6-8.1-10-1, on the amount by which the purchase price exceeds the minimum bid on the property, if the date of sale occurs after June 30, 2016;

(+) (2) five percent (5%) per annum on those taxes and special assessments, if the date of sale occurs after June 30, 2014, and before July 1, 2016; or



(2) (3) ten percent (10%) interest per annum on those taxes and special assessments, if the date of sale occurs before July 1, 2014.

(e) Except as provided in subsection (g), in addition to the amounts required under subsections (b), (c), and (d), the total amount required for redemption includes the following costs, if certified before redemption and not earlier than thirty (30) days after the date of sale of the property being redeemed by the payor to the county auditor on a form prescribed by the state board of accounts, that were incurred and paid by the purchaser, the purchaser's assignee, or the county, before redemption:

(1) The attorney's fees and costs of giving notice under section 4.5 of this chapter.

(2) The costs of a title search or of examining and updating the abstract of title for the tract or item of real property.

(f) The total amount required for redemption includes, in addition to the amounts required under subsections (b) and (e), all taxes, special assessments, interest, penalties, and fees on the property that accrued and are delinquent after the sale.

(g) With respect to a tract or item of real property redeemed under section 4(c) of this chapter, instead of the amounts stated in subsections (b) through (f), the total amount required for redemption is the amount determined under IC 6-1.1-24-6.1(b)(4).

SECTION 3. IC 6-1.1-25-11, AS AMENDED BY P.L.251-2015, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11. (a) Subsequent to the issuance of the order directing the county auditor to issue a tax deed to real property sold under IC 6-1.1-24, a county auditor shall refund:

(1) the purchase money and all taxes and special assessments on the property paid by the purchaser, the purchaser's assigns, or the purchaser of the certificate of sale under IC 6-1.1-24 after the tax sale plus ~~five percent (5%)~~ interest per annum, **using the adjusted rate of interest specified for the previous year for late payments of state income tax under IC 6-8.1-10-1;** and

(2) the costs described in section 2(e) of this chapter, if the costs were certified before the expiration of the period of redemption, subject to section 2.5 of this chapter;

from the county treasury to the purchaser, the purchaser's successors or assigns, or the purchaser of the certificate of sale under IC 6-1.1-24 if it is found by the court that entered the order for the tax deed that the sale was invalid.

(b) The grantee of an invalid tax deed, including the county, to whom a refund is made under this section shall execute, acknowledge,



and deliver to the owner a deed conveying whatever interest the purchaser may have acquired by the tax sale deed. If a county is required to execute a deed under this section, the deed shall be signed by the county board of commissioners and acknowledged by the clerk of the circuit court.

(c) A refund may not be made under this section while an action initiated under either section 14 or 16 of this chapter is pending.

(d) If a sale is declared invalid after a claim is submitted under IC 6-1.1-24-7 for money deposited in the tax sale surplus fund and the claim is paid, the county auditor shall initiate an action to recover the amount claimed, plus reasonable attorney's fees and any other costs reasonably incurred by the county in the course of, and attributable to, the recovery of the amount claimed.

SECTION 4. IC 32-30-10.5-8, AS AMENDED BY P.L.102-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) This section applies to a foreclosure action that is filed after June 30, 2009. Except as provided in subsection (e) and ~~section sections~~ 10(g) and 12 of this chapter, not later than thirty (30) days before a creditor files an action for foreclosure, the creditor shall send to the debtor by certified mail a presuit notice on a form prescribed by the authority. The notice required by this subsection must do the following:

(1) Inform the debtor that:

(A) the debtor is in default;

(B) the debtor is encouraged to obtain assistance from a mortgage foreclosure counselor; and

(C) if the creditor proceeds to file a foreclosure action and obtains a foreclosure judgment, the debtor has a right to do the following before a sheriff's sale is conducted:

(i) Appeal a finding of abandonment by a court under IC 32-30-10.6.

(ii) Redeem the real estate from the judgment under IC 32-29-7-7.

(iii) Retain possession of the property under IC 32-29-7-11(b), subject to the conditions set forth in IC 32-29-7-11(b).

(2) Provide the contact information for the Indiana Foreclosure Prevention Network.

(3) Include the following statement printed in at least 14 point boldface type:

"NOTICE REQUIRED BY STATE LAW

Mortgage foreclosure is a complex process. People may



approach you about "saving" your home. You should be careful about any such promises. There are government agencies and nonprofit organizations you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Indiana Foreclosure Prevention Network."

(b) The notice required by subsection (a) shall be sent to:

- (1) the address of the mortgaged property; or
- (2) the last known mailing address of the debtor if the creditor's records indicate that the mailing address of the debtor is other than the address of the mortgaged property.

If the creditor provides evidence that the notice required by subsection (a) was sent ~~by certified mail, return receipt requested, and~~ in accordance with this subsection, it is not necessary that the debtor accept receipt of the notice for an action to proceed as allowed under this chapter.

(c) Except as provided in subsection (e) and section 10(g) of this chapter, if a creditor files an action to foreclose a mortgage, the creditor shall:

- (1) in the case of a foreclosure action filed after June 30, 2009, but before July 1, 2011, include with the complaint served on the debtor, on a form prescribed by the authority; and
- (2) subject to subsection (f), in the case of a foreclosure action filed after June 30, 2011, include on the first page of the summons that is served on the debtor in conjunction with the complaint;

a notice that informs the debtor of the debtor's right to participate in a settlement conference, subject to section 9(b) of this chapter. The notice under subdivision (1) or (2) must inform the debtor that the debtor may schedule a settlement conference by notifying the court, not later than thirty (30) days after the complaint is served on the debtor, of the debtor's intent to participate in a settlement conference.

(d) If a creditor files an action to foreclose a mortgage the creditor shall do the following:

- (1) Include with the complaint filed with the court:
 - (A) except as provided in subsection (e) and ~~section~~ **sections 10(g) and 12** of this chapter, a copy of the notices sent to the debtor under subsections (a) and (c), if the foreclosure action is filed after June 30, 2009, but before July 1, 2011; or
 - (B) the following, if the foreclosure action is filed after June 30, 2011:
 - (i) Except as provided in subsection (e) and section 10(g) of this chapter, a copy of the notice sent to the debtor under



subsection (a).

(ii) The following most recent contact information for the debtor that the creditor has on file: all telephone numbers and electronic mail addresses for the debtor and any mailing address described in subsection (b)(2). The contact information provided under this item is confidential under IC 5-14-3-4(a)(13).

(2) For a foreclosure action filed after June 30, 2011, at the time the complaint is filed with the court, send:

(A) by certified mail, return receipt requested; and

(B) to the last known mailing address of the insurance company;

a copy of the complaint filed with the court to the insurance company of record for the property that is the subject of the foreclosure action.

It is not necessary that the insurance company accept receipt of the copy of the complaint for the creditor to satisfy the requirement of subdivision (2). A creditor's failure to provide a copy of the complaint as required by subdivision (2) does not affect the foreclosure action or subject the creditor to any liability. Subject to section 9(b) of this chapter, in the case of a foreclosure action filed after June 30, 2011, upon the filing of the complaint by the creditor, the court shall send to the debtor, by United States mail and to the address of the mortgaged property, or to an address for the debtor provided by the creditor under subdivision (1)(B)(ii), if applicable, a notice that informs the debtor of the debtor's right to participate in a settlement conference. The court's notice must inform the debtor that the debtor may schedule a settlement conference by notifying the court of the debtor's intent to participate in a settlement conference. The court's notice must specify a date by which the debtor must request a settlement conference, which date must be the date that is thirty (30) days after the date of the creditor's service of the complaint on the debtor under subsection (c), as determined by the court from the service list included with the complaint filed with the court. The court may not delegate the duty to send the notice the court is required to provide under this subsection to the creditor or to any other person.

(e) A creditor is not required to send the notices described in this section if:

(1) the mortgage is secured by a dwelling that is not occupied by the debtor as the debtor's primary residence;

(2) the mortgage has been the subject of a prior foreclosure prevention agreement under this chapter and the debtor has



1 defaulted with respect to the terms of that foreclosure prevention
2 agreement; or

3 (3) bankruptcy law prohibits the creditor from participating in a
4 settlement conference under this chapter with respect to the
5 mortgage.

6 (f) Not later than June 1, 2011, the authority, in consultation with
7 the division of state court administration, shall prescribe language for
8 the notice required under subsection (c)(2) to be included on the first
9 page of the summons that is served on the debtor in a foreclosure action
10 filed after June 30, 2011. The language must convey the same
11 information as the form prescribed by the authority under subsection
12 (c)(1) for foreclosure actions filed after June 30, 2009, but before July
13 1, 2011. The authority shall make the language prescribed under this
14 subsection available on the authority's Internet web site. A creditor
15 complies with subsection (c)(2) in a foreclosure action filed after June
16 30, 2011, if the creditor includes on the first page of the summons
17 served on the debtor:

18 (1) the language that is prescribed by the authority under this
19 subsection and made available on the authority's Internet web site;
20 or

21 (2) language that conveys the same information as the language
22 that is prescribed by the authority under this subsection and made
23 available on the authority's Internet web site.

24 SECTION 5. IC 32-30-10.5-8.5, AS ADDED BY P.L.170-2011,
25 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2016]: Sec. 8.5. (a) **Except as provided in section 12 of this**
27 **chapter**, this section applies to the following:

28 (1) A mortgage foreclosure action with respect to which:

29 (A) the creditor has filed the complaint in the proceeding
30 before July 1, 2011;

31 (B) the debtor has contacted the court under section 8(c) of
32 this chapter or under section 11(b) of this chapter to schedule
33 a settlement conference under this chapter; and

34 (C) the court having jurisdiction over the action has not:

35 (i) issued a stay in the foreclosure proceedings pending the
36 conclusion of the settlement conference under this chapter;

37 (ii) issued a default judgment against the debtor in the
38 action; or

39 (iii) rendered a judgment of foreclosure in the action.

40 (2) A mortgage foreclosure action with respect to which:

41 (A) the creditor has filed the complaint in the proceeding after
42 June 30, 2011; and



1 (B) the debtor has contacted the court under section 8(c) of
 2 this chapter to schedule a settlement conference under this
 3 chapter.

4 (b) In a mortgage foreclosure action to which this section applies,
 5 the court, notwithstanding Indiana Trial Rule 56, shall stay the granting
 6 of any dispositive motion until one (1) of the following occurs, subject
 7 to the court's right under section 10(b) of this chapter to order the
 8 creditor and the debtor to reconvene a settlement conference at any
 9 time before judgment is entered:

10 (1) The court receives notice under section 10(e) of this chapter
 11 that after the conclusion of a settlement conference held under
 12 this chapter:

13 (A) the debtor and the creditor have agreed to enter into a
 14 foreclosure prevention agreement; and

15 (B) the creditor has elected under section 10(e) of this chapter
 16 to dismiss the foreclosure action for as long as the debtor
 17 complies with the terms of the foreclosure prevention
 18 agreement.

19 (2) The court receives notice under section 10(f) of this chapter
 20 that after the conclusion of a settlement conference held under
 21 this chapter, the creditor and the debtor are unable to agree on the
 22 terms of a foreclosure prevention agreement.

23 (c) If the debtor requests a settlement conference under this chapter,
 24 the court shall treat the request as the entry of an appearance under
 25 Indiana Trial Rule 3.1(B).

26 SECTION 6. IC 32-30-10.5-9, AS AMENDED BY P.L.102-2012,
 27 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2016]: Sec. 9. (a) Except as provided in sections 8(e), ~~and~~
 29 10(g), **and 12** of this chapter and subsection (b), and subject to section
 30 8.5 of this chapter, after June 30, 2009, a court may not issue a
 31 judgment of foreclosure under IC 32-30-10 on a mortgage subject to
 32 this chapter unless all of the following apply:

33 (1) The creditor has given the notice required under section 8(c)
 34 of this chapter.

35 (2) One (1) of the following applies:

36 (A) The debtor does not contact the court within the thirty (30)
 37 day period described in section 8(c) of this chapter to schedule
 38 a settlement conference under this chapter.

39 (B) The debtor contacts the court within the thirty (30) day
 40 period described in section 8(c) of this chapter to schedule a
 41 settlement conference under this chapter and, upon conclusion
 42 of the settlement conference, the parties are unable to reach



1 agreement on the terms of a foreclosure prevention agreement.

2 (C) In a foreclosure action filed after June 30, 2011, the
3 debtor:

4 (i) contacts the court within the thirty (30) day period
5 described in section 8(c) of this chapter to schedule a
6 settlement conference under this chapter; and

7 (ii) does not provide to the creditor and the court at least one
8 (1) of the documents required as part of the debtor's loss
9 mitigation package, as specified by the authority in the
10 listing developed under section 10(i) of this chapter and
11 included with the court's notice under section 10(a)(8) of
12 this chapter, within the time specified in the court's notice
13 under section 10(a)(3)(A) of this chapter.

14 (3) At least sixty (60) days have elapsed since the date the notice
15 required by section 8(a) of this chapter was sent.

16 (b) If the court finds that a settlement conference would be of
17 limited value based on the result of a prior loss mitigation effort
18 between the creditor and the debtor:

19 (1) a settlement conference is not required under this chapter; and

20 (2) the conditions set forth in subsection (a) do not apply, and the
21 foreclosure action may proceed as otherwise allowed by law.

22 SECTION 7. IC 32-30-10.5-12 IS ADDED TO THE INDIANA
23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2016]: **Sec. 12. This chapter does not apply**
25 **to a mortgage that is serviced by a mortgage servicer that is**
26 **subject to the requirements of 12 CFR 1024.39, 12 CFR 1024.40,**
27 **and 12 CFR 1024.41.**

28 SECTION 8. IC 35-43-1-2.4 IS ADDED TO THE INDIANA CODE
29 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 2016]: **Sec. 2.4. A person who recklessly, knowingly, or**
31 **intentionally damages or defaces property:**

32 (1) in which a lender has a security interest or that is
33 mortgaged or pledged to a lender; and

34 (2) that is the subject of a mortgage foreclosure proceeding;
35 **commits foreclosure mischief, a Class A misdemeanor.**

36 SECTION 9. IC 35-43-2-2, AS AMENDED BY P.L.21-2014,
37 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2016]: **Sec. 2. (a) As used in this section, "authorized person"**
39 **means a person authorized by an agricultural operation to act on behalf**
40 **of the agricultural operation.**

41 (b) A person who:

42 (1) not having a contractual interest in the property, knowingly or



intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;

(2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;

(3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the:

(A) property of an agricultural operation that is used for the production, processing, propagation, packaging, cultivation, harvesting, care, management, or storage of an animal, plant, or other agricultural product, including any pasturage or land used for timber management, without the consent of the owner of the agricultural operation or an authorized person; or

(B) dwelling of another person without the person's consent;

(6) knowingly or intentionally:

(A) travels by train without lawful authority or the railroad carrier's consent; and

(B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

(7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is:

(A) vacant **real property (as defined in IC 36-7-36-5) or a vacant structure (as defined in IC 36-7-36-6);** or

(B) designated by a municipality or county enforcement authority to be abandoned property or an abandoned structure (as defined in IC 36-7-36-1);

(8) not having a contractual interest in the property, knowingly or intentionally enters the real property of an agricultural operation (as defined in IC 32-30-6-1) without the permission of the owner of the agricultural operation or an authorized person, and



1 knowingly or intentionally engages in conduct that causes
2 property damage to:

3 (A) the owner of or a person having a contractual interest in
4 the agricultural operation;

5 (B) the operator of the agricultural operation; or

6 (C) a person having personal property located on the property
7 of the agricultural operation; or

8 (9) knowingly or intentionally enters the property of another
9 person after being denied entry by a court order that has been
10 issued to the person or issued to the general public by
11 conspicuous posting on or around the premises in areas where a
12 person can observe the order when the property has been
13 designated by a municipality or county enforcement authority to
14 be a vacant property, an abandoned property, or an abandoned
15 structure (as defined in IC 36-7-36-1);

16 commits criminal trespass, a Class A misdemeanor. However, the
17 offense is a Level 6 felony if it is committed on a scientific research
18 facility, on a key facility, on a facility belonging to a public utility (as
19 defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or
20 the person has a prior unrelated conviction for an offense under this
21 section concerning the same property. The offense is a Level 6 felony,
22 for purposes of subdivision (8), if the property damage is more than
23 seven hundred fifty dollars (\$750) and less than fifty thousand dollars
24 (\$50,000). The offense is a Level 5 felony, for purposes of subdivision
25 (8), if the property damage is at least fifty thousand dollars (\$50,000).

26 (c) A person has been denied entry under subsection (b)(1) when the
27 person has been denied entry by means of:

28 (1) personal communication, oral or written;

29 (2) posting or exhibiting a notice at the main entrance in a manner
30 that is either prescribed by law or likely to come to the attention
31 of the public; or

32 (3) a hearing authority or court order under IC 32-30-6,
33 IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.

34 (d) A law enforcement officer may not deny entry to property or ask
35 a person to leave a property under subsection (b)(7) unless there is
36 reasonable suspicion that criminal activity has occurred or is occurring.

37 (e) A person described in subsection (b)(7) violates subsection
38 (b)(7) unless the person has the written permission of the owner, **the**
39 owner's agent, **an** enforcement authority, or **a** court to come onto the
40 property for purposes of performing maintenance, repair, or demolition.

41 (f) A person described in subsection (b)(9) violates subsection
42 (b)(9) unless the court that issued the order denying the person entry



1 grants permission for the person to come onto the property.

2 (g) Subsections (b), (c), and (f) do not apply to the following:

3 (1) A passenger on a train.

4 (2) An employee of a railroad carrier while engaged in the
5 performance of official duties.

6 (3) A law enforcement officer, firefighter, or emergency response
7 personnel while engaged in the performance of official duties.

8 (4) A person going on railroad property in an emergency to rescue
9 a person or animal from harm's way or to remove an object that
10 the person reasonably believes poses an imminent threat to life or
11 limb.

12 (5) A person on the station grounds or in the depot of a railroad
13 carrier:

14 (A) as a passenger; or

15 (B) for the purpose of transacting lawful business.

16 (6) A:

17 (A) person; or

18 (B) person's:

19 (i) family member;

20 (ii) invitee;

21 (iii) employee;

22 (iv) agent; or

23 (v) independent contractor;

24 going on a railroad's right-of-way for the purpose of crossing at a
25 private crossing site approved by the railroad carrier to obtain
26 access to land that the person owns, leases, or operates.

27 (7) A person having written permission from the railroad carrier
28 to go on specified railroad property.

29 (8) A representative of the Indiana department of transportation
30 while engaged in the performance of official duties.

31 (9) A representative of the federal Railroad Administration while
32 engaged in the performance of official duties.

33 (10) A representative of the National Transportation Safety Board
34 while engaged in the performance of official duties.

35 **SECTION 10. An emergency is declared for this act.**

